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Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Director
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Jeffrey Hurst
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
WELLMORE ENERGY COMPANY, LLC
FOR
WELLMORE NO. 8
Registration No. 10837**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Wellmore Energy Company, LLC, regarding Wellmore No. 8, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means the Wellmore No. 8 facility, located at State Route 700, Big Rock, in Buchanan County, Virginia.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Order" means this document, also known as a "Consent Order" or "Order by Consent", a type of Special Order under the Virginia Air Pollution Control Law.
7. "PCE" means a partial compliance evaluation by DEQ staff.
8. "Permit" means a NSR permit to modify and operate a coal preparation plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Wellmore Energy Company, LLC on March 16, 2015, and which supersedes the Article 6 permit dated August 1, 2011.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "SWRO" means the Southwest Regional of DEQ, located in Abingdon, Virginia.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
14. "Wellmore Energy" means Wellmore Energy Company, LLC, a company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Wellmore Energy Company, LLC is a "person" within the meaning of Va. Code § 10.1-1300.

SECTION C: Findings of Fact and Conclusions of Law

1. Wellmore Energy owns and operates the Facility in Buchanan County, Virginia. The Facility is the subject of the Permit, which allows Wellmore Energy to modify and operate a coal preparation plant.
2. During the December 29, 2021 PCE, DEQ staff observed that the rotary breaker and full enclosure had been removed and that a vibrating screen had been installed in place of the rotary breaker and was operating with no enclosure. Facility staff indicated that the vibrating screen had been installed in November 2021, around Thanksgiving. Wellmore Energy did not obtain a permit prior to installation and operation of the vibrating screen.

3. 9 VAC 5-80-1120(A) states: "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit."
4. On January 27, 2022, based on the results of the December 29, 2021 PCE, the Department issued Notice of Violation No. ASWRO002023 to Wellmore Energy for the violations described in paragraph C(2) above.
5. On February 7, 2022, Wellmore Energy submitted a written NOV response, dated February 4, 2022. The response indicated that, prior to the date of the PCE, Wellmore Energy had obtained the services of a consultant for determination of appropriate permitting action to address the equipment replacement. Wellmore Energy submitted a permit modification to DEQ on December 23, 2021 to address installation of the vibrating screen.
6. Based on the results of the December 29, 2021 PCE and the February 7, 2022 correspondence from Wellmore Energy, the Board concludes that Wellmore Energy has violated 9 VAC 5-80-1120(A), as described in paragraph C(2), above.
7. The permit application submitted to DEQ by Wellmore Energy on December 23, 2021 was deemed complete on January 26, 2022, and the permit was issued on March 16, 2022. Issuance of the permit resolved the violations covered by this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Wellmore Energy Company, LLC, and Wellmore Energy Company, LLC agrees to pay a civil charge of \$16,960.86 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Wellmore Energy Company, LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due

under this Order to the Department of Law, Wellmore Energy Company, LLC shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Wellmore Energy for good cause shown by Wellmore Energy, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV ASWRO002023, dated January 27, 2022. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Wellmore Energy admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Wellmore Energy consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Wellmore Energy declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Wellmore Energy to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Wellmore Energy shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Wellmore Energy

shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Wellmore Energy shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

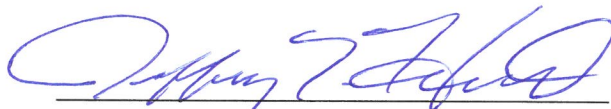
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Wellmore Energy. Nevertheless, Wellmore Energy agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Wellmore Energy has completed all of the requirements of the Order;
 - b. Wellmore Energy petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Wellmore Energy.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Wellmore Energy from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Wellmore Energy and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Wellmore Energy certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Wellmore Energy to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Wellmore Energy.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Wellmore Energy voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21ST day of June, 2022.



Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

Wellmore Energy Company, LLC voluntarily agrees to the issuance of this Order.

Date: 6/20/2022 By: J.P. Richardson, President
(Person) (Title)
Wellmore Energy Company, LLC

Commonwealth of Virginia

City/County of Buchanan

The foregoing document was signed and acknowledged before me this 20 day of

JUNE, 2022, by J. P. Richardson who is

PRESIDENT of Wellmore Energy Company, LLC, on behalf of the
company.

[Signature]
Notary Public

109808

Registration No.

My commission expires: Nov 30 2023

